

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:	}	Case No. 3:15-bk-00643
ARIEL NICOLE RUSSELL	}	
106 BROOKERIDGE DRIVE	}	Chapter 13
La Vergne, TN 37086	}	
SSN: xxx-xx-0907	}	Judge Marian F Harrison
	}	
Debtor	}	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: October 31, 2019

IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: November 20, 2019 at 8:30 a.m. in Courtroom One, Second Floor, 701 Broadway, The Customs House, Nashville, TN 37203

**NOTICE OF MOTION TO MODIFY PLAN TO UTILIZE INSURANCE PROCEEDS TO
APPLY TO SECURED CLAIM INSOLVE AUTO FUNDING**

The Debtors have asked the Court for the following relief: permission to modify plan to utilize insurance proceeds to apply to secured claim.

YOUR RIGHTS MAY BE AFFECTED. IF YOU DO NOT FILE A TIMELY RESPONSE TO THIS MOTION THEN YOUR SILENCE SHALL BE DEEMED ACCEPTANCE OF THE RELIEF REQUESTED HEREIN.

If you do not want the court to grant the attached motion, or if you want the court to consider your views on the motion, then on or before October 31, 2019, you or your attorney must:

1. File with the court your written response or objection explaining your position at:
By Mail: U.S. Bankruptcy Court, 701 Broadway, Room 170, Nashville, TN 37203
In Person: U.S. Bankruptcy Court, 701 Broadway, Room 170, Nashville, TN 37203
(Monday- Friday, 8:00 a.m. – 4:00 p.m.)
2. Your responses must state that the deadline for filing responses: **October 31, 2019**, the date of the scheduled hearing is: **November 20, 2019**, and the motion to which you are responding is: MOTION TO MODIFY PLAN TO UTILIZE INSURANCE PROCEEDS TO APPLY TO SECURED CLAIM. If you want a file stamped copy returned, you must include an extra copy and a self-addressed, stamped envelope.
3. You must also mail a copy of your response to:
Flexer Law, PLLC, 1900 Church Street, Suite 400, Nashville, TN 37203 and see Certificate of Service for additional parties to serve (attached hereto)

If a timely response is filed, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584 or viewing the case on the Court's web site at <http://www.tnmb.uscourts.gov>. If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting relief.

Date: 10/9/19	Signature: <u>/s/ Daniel T. Castagna</u>
	Name: Daniel T. Castagna, Flexer Law, PLLC
	Address: 1900 Church Street, Suite 400, Nashville, TN 37203
	Email: cm-ecf@jamesflexerconsumerlaw.com

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**MOTION TO MODIFY PLAN TO UTILIZE INSURANCE PROCEEDS TO APPLY TO
SECURED CLAIM OF INSOLVE AUTO FUNDING**

COMES NOW the Debtor, by and through counsel, pursuant to 11 U.S.C. § 363 and would request that the Court enter an order allowing the Debtor to utilize insurance proceeds to apply to the secured balance owed to InSolve Auto Funding c/o Capital Recovery Group on the Debtor's 2016 Hyundai Sonata.

The Debtor's Chapter 13 proceeding was filed on January 30, 2015 and a plan was confirmed on March 11, 2015.

As grounds, the Debtors would state the following:

I. RELIEF REQUESTED

1. The Debtor's 2016 Hyundai Sonata was totaled in an auto accident.
2. The insurance company, Geico, is prepared to issue insurance proceeds in the amount of \$8,856.43.
3. InSolve Auto Funding c/o Capital Recovery Group holds a secured claim in the Debtor's Chapter 13 case with a lien on the Debtor's 2016 Hyundai Sonata which has a balance of \$10,787.11 according to the records of InSolve Auto Funding c/o Capital Recovery Group.
4. The Debtor seeks permission to utilize the insurance proceeds to apply to the balance of the secured claim of InSolve Auto Funding c/o Capital Recovery Group (Court Claim #9) in the amount of \$8,856.43.
5. The insurance company shall send the insurance proceeds to the Chapter 13 Trustee to be disbursed to InSolve Auto Funding c/o Capital Recovery Group to be applied to the balance of the claim of InSolve Auto Funding.
6. InSolve Auto Funding c/o Capital Recovery Group shall provide guarantee of title to Geico.

7. InSolve Auto Funding c/o Capital Recovery Group shall amend their upon receipt of the funds.
8. Flexer Law, PLLC would apply for additional fees to be added to the Debtor's Chapter 13 plan for time expended in connection with this matter.

Respectfully submitted,

/s/ Daniel T. Castagna

Daniel T. Castagna, BPR #: 022721
Flexer Law, PLLC, Attorney for Debtors
1900 Church Street, Suite 400
Nashville, TN 37203
(615) 255-2893
fax: (615) 242 8849
cm-ecf@jamesflexerconsumerlaw.com

DRAFT

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106 BROOKERIDGE DRIVE	}	Chapter 13
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SSN: xxx-xx-0907	}	Judge Marian F Harrison
	}	
Debtor	}	

PROPOSED ORDER GRANTING MOTION TO MODIFY PLAN TO UTILIZE INSURANCE PROCEEDS TO PAY OFF SECURED CLAIM OF INSOLVE AUTO FUNDING

It appears to the United States Bankruptcy Court for the Middle District of Tennessee that the Debtors filed a Motion to Modify Plan to Utilize Insurance Proceeds to Apply to Secured Claim of InSolve Auto Funding c/o Capital Recovery Group and notice of said motion has been given pursuant to L.B.R. 9013-1 to all parties in interest. It further appears to the Court that twenty-one (21) days have elapsed since the date of service of the motion and no responses have been forthcoming from any party in interest.

It is therefore ORDERED as follows:

1. The Debtor shall be permitted to utilize the insurance proceeds as a result of a total loss to the Debtor's 2016 Hyundai Sonata to apply to the balance of the secured claim of InSolve Auto Funding c/o Capital Recovery Group.
2. The lien holder, InSolve Auto Funding c/o Capital Recovery Group, shall be required to provide guarantee of title to Geico upon entry of this order.
3. Geico shall issue a check in the amount of the proceeds to the Chapter 13 Trustee.
4. The Chapter 13 Trustee shall disburse the proceeds to InSolve Auto Funding c/o Capital Recovery Group to apply to the secured claim of InSolve Auto Funding (Court Claim #6).
5. InSolve Auto Funding c/o Capital Recovery Group shall amend their claim upon receipt of the funds.

6. Flexr Law, PLLC shall apply for additional fees by separate application for work performed in this matter.
7. No other terms of the Debtors' plan shall be affected by this modification.

IT IS SO ORDERED.

This order was electronically signed and entered as indicated at the top of the first page.

APPROVED FOR ENTRY:

/s/ Daniel T. Castagna

Daniel T. Castagna, BPR #022721
Flexer Law, PLLC, Attorney for Debtor
1900 Church Street, Suite 400
Nashville, TN 37203
(615) 255-2893
fax: (615) 242 8849
cm-ecf@jamesflexerconsumerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2019, I furnished a true and correct copy of the foregoing to the following parties in interest:

Henry E. Hildebrand, III
Chapter 13 Trustee
P.O. Box 340019
Nashville, TN 37203-0019

Electronic

US TRUSTEE
OFFICE OF THE UNITED STATES TRUSTEE
318 Customs House, 701 Broadway
Nashville, TN 37203

Electronic

Ariel Russell
331 Plus Park Blvd
APT #314
Nashville, TN 37217

U.S. Mail First Class

Geico Salvage
Attn: Claim Number 0658759770101043
1355 Lynnfield Rd
Memphis, TN 38119

U.S. Mail First Class
Email: cssf@geico.com

InSolve Auto Funding
c/o Capital Recovery Group
PO Box 64090
Tucson, AZ 85728

U.S. Mail First Class
Email: servicing@insolveautofunding.com

5 notices have been served. I have mailed 3 notices and e-mailed 2 notices.

/s/ Daniel T. Castagna

Daniel T. Castagna